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BANGALORE, THURSDAY, JULY 6, 1916.

PART III.

Legislative Measures and Rules thereunder.

Abstract Proceedings of the Mysore Legislative Council.

The Council met in the Public Offices Buildings, Bangalore, on Friday the 28th April 1916, at 12 noon.

PRESENT.

SIR M. VISVESVARAYA, B.A., L.C.E., M.INST.C.E., K.C.I.E., Dewan (Presiding).

Ex officio Members.

1. A. R. BANERJI, ESQ., I.C.S., M.A., C.I.E.,
First Member of Council.
2. K. S. CHANDRASEKHARA AIYAR, ESQ., B.A., B.L.,
Second Member of Council.

Additional Members.

Official.

1. RAJAMANTRAPRAVINA DEWAN BAHADUR J. S. CHAKRAVARTI, ESQ.,
M.A., F.R.A.S.
2. DEWAN BAHADUR C. SRIKANTESVARA AIYAR, ESQ., B.A., B.L.
3. P. RAGHAVENDRA RAO, ESQ., B.A., B.L.
4. RAO BAHADUR M. SHAMA RAO, ESQ., M.A.
5. D. M. NARASINGA RAO, ESQ., B.A., B.L.
6. C. S. DORASWAMI IYER, ESQ., B.A., B.L.
7. C. S. BALASUNDARAM IYER, ESQ., B.A.

Non-official.

1. RAJASABHABHUSHANA DEWAN BAHADUR K. P. PUTTANNA CHETTY, Esq.
2. M. CHENGIAH CHETTY, Esq., B.A.
3. H. NARASINGA RAO, Esq.
4. B. V. RAMASWAMI CHETTY, Esq., B.A.
5. NAWAB GULAM AHMAD KALAMI, Esq.
6. M. BASAVA IYA, Esq., B.A., B.L.
7. B. NARASINGA RAO, Esq.
8. M. KARNIK KRISHNAMURTHI RAO, Esq.
9. C. NARASIMHAIA, Esq., B.A., B.L.
10. B. K. GARUDACHAR, Esq.
11. M. VENKATAKRISHNAIA, Esq.
12. B. VENKATASUBHAMANNA, Esq., B.A., B.L.
13. S. SEETHARAMAIA, Esq.

ABSENT.

1. K. S. DORASWAMI IYER, Esq.

G. SREENIVASA IYER, Esq., B.A., M.L. (Secretary).

Dewan.—GENTLEMEN, I feel I should refer to the absence of my former colleagues from their wonted places and I know you will share my regret that they are not with us to-day. Mr. Kantaraj Urs is away for rest and change on a foreign tour on six months' leave.

Mr. H. V. Nanjundayya, late Senior Member of Council, has retired after a service of thirty-one years which he rendered with conspicuous ability and for which he has been honoured both by the Imperial Government and His Highness the Maharaja. He served His Highness' Government as a Member of the Executive Council for nearly seven years. He possesses considerable experience as an administrator and he has a profound knowledge of law on account of his varied experience as a Lawyer, Legislator and Chief Judge. In all these capacities, he did work of great value and his service was characterised by a high standard of ability, integrity, patriotism and independence of judgment.

Mr. H. V. Nanjundayya retires from Government service after a distinguished career. With his great talents he has new opportunities of rendering further useful service to the public and we all wish him health, happiness and success in his future career.

I have no doubt you will also join me in according a warm welcome to my new colleagues, Mr. A. R. Banerji and Mr. K. S. Chandrasekhara Aiyar.

Rajasabhabushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—SIR,—I am sure this Council would wish to associate itself with the sentiments expressed by you with regard to two gentlemen who are not now with us. Mr. Kantaraj Urs, is spending his time to good purpose in Japan and will, we hope, be in our midst again at the end of his foreign tour. We miss his genial presence. In the retirement of Mr. H. V. Nanjundayya, we feel that we are losing an able Member of this Council. He was a Member for nearly seven years, and during that period he piloted many a bill in this Council with ability and prudence. It is a peculiar pleasure to me as an old colleague and friend of his to say a few words of farewell at the time of his retirement. He did his duty in an humble spirit without show or ostentation. Prosperity had not spoiled him. He always remembered the various stages of life through which he passed. He was an ornament to the service. Having obtained the very highest literary and educational qualifications in this Province, his success in official life was assured. If he was distinguished for one thing more than another, it was his independence. When he once

made up his mind about a thing, it was very difficult to move him from the position he took up. His judgment was marked by strong commonsense and singleness of purpose and whatever position he occupied, he always adorned it. He was for a time Chief Judge of the Chief Court and thereafter was raised to the position of a Member of the Executive Council. He was also distinguished for another quality which was an inestimable one, *viz.*, patriotism. He was a lover of his country and its people. Both his public and private life was characterised by simplicity. Whatever he did, he did to the best of his ability. He has now retired in the fulness of time with the good will of the people and high recognition from His Highness the Maharaja and the British Government. It is a pleasure to see that his services will not be lost to the State by his retirement and that he will continue to help us with his ripe experience and knowledge. We earnestly hope that he will give this Council the benefit of his legal knowledge and administrative experience for a long time to come.

I join with you, Sir, in extending a hearty welcome to this Council to our new Members Mr. Banerji and Mr. Chandrasekhara Aiyar, who, I am sure, will be a great acquisition to the service of the State.

Mr. M. Venkatakrishnaiya.—SIR,—I also desire to associate myself with the many good things said of Mr. H. V. Nanjundayya by the last speaker. Mr. H. V. Nanjundayya was an officer of rare ability and wide experience. It is a great pleasure to hear that his services will not be entirely lost to the State by his retirement and that he will continue to render useful service. He was a Member of this Council for several years past and I hope his membership will also be restored soon.

The Secretary's Report to the Council.

The Secretary reported to the Council that:—

- (i) the Mysore Lunacy Bill and the Bill further to amend the Mysore Land Revenue Code, 1888, received the assent of His Highness the Maharaja on the 25th day of February 1916, and
- (ii) the following gentlemen took their seats as additional members of the Council:—

Mr. B. K. Garudachar,
 „ M. Venkatakrishnaiya,
 „ B. Venkatasamanna, B.A., B.L.,
 „ S. Seetharamaiya,

Rajamantrapravina Dewan Bahadur

Mr. J. S. Chakravarti, M.A., F.R.A.S.,
 „ P. Raghavendra Rao, B.A., B.L., and
 „ C. S. Balasundaram Iyer, B.A.

Questions and Answers.

1. **Mr. B. Narasinga Rao, asked.**—(a) Has the attention of Government been drawn to an extract from the judgment of the Hon'ble the Chief Court of Mysore, published in the "Daily Post" and "New India" dated 30th October and 3rd November 1915, respectively, to the effect that considering the manner in which the Amildar-Magistrate of Goribidnur has dealt with the law and facts of the case, "it is very doubtful whether he is fit to exercise second class powers or any magisterial powers at all and this is one of those cases which emphasize the need of putting into practice at least so far as the Amildar—Heads-of-Police—Magistrates are concerned the separation of magisterial and executive functions"?

(b) Will Government be pleased to state the action taken in regard to the conduct of the Amildar-Magistrate and the District Magistrate "who did not scrutinize the evidence with the care it required"?

(c) Will Government be pleased to appoint a Committee consisting of experienced officers and non-official gentlemen to formulate a practical scheme for a complete separation of judicial from executive functions?

Mr. K. S. Chandrasekhara Aiyar, B.A., B.L., replied.—(a) Government have perused the judgment referred to.

(b) Government perused the records but considered that no specific action was necessary.

(c) The question of the separation of judicial and executive functions is under the consideration of Government, and the suggestion of the member will receive due attention when the matter approaches the stage for action.

Mr. B. Narasinga Rao, further asked.—Since the highest court in the land has doubted the capacity of the Amildar to exercise Magisterial powers, will Government be pleased to state whether it is not possible to divest the Amildar of the Magisterial powers?

Mr. K. S. Chandrasekhara Aiyar, B.A., B.L., replied.—This has been answered in the reply to question I (b).

2. Mr. B. Narasinga Rao, asked.—(a) Has the attention of Government been drawn to a correspondence published in "Vrittanta Patrika," dated 25th November 1915, containing certain allegations against the Amildar of Sagar?

(b) Will Government be pleased to state the action taken in the matter?

Mr. D. M. Narasinga Rao, B.A., B.L., replied.—(a) Yes.

(b) The matter is under enquiry.

3. Mr. M. Karnick Krishnamurthi Rao asked.—(a) Will Government be pleased to lay on the table a statement showing the number of defalcations and the amount embezzled in the several offices located at Bangalore during the years 1914-15 and 1915-16?

(b) Are Government aware of the confused state of accounts in the Government Book Depot? Who is the present Curator and what has become of his predecessor?

(c) Were the accounts audited by qualified auditors of the Comptroller's office after the confusion was brought to notice?

(d) What is the further action contemplated in the matter?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) A statement* showing the required particulars, as far as available, is placed on the table.

(b) The matter is receiving attention and is under enquiry. The permanent Curator is under suspension. The Sloyd Supervisor is acting as Curator.

(c) & (d) An accountant† from the Comptroller's office has been deputed to audit the accounts and his report is awaited.

4. Mr. Gulam Ahmad Kalami, asked.—Will Government be pleased to lay on the table a statement showing the amounts allotted in the budgets of the last five years for the sole benefit and advancement of Mahomedan education, the actual amounts expended in the respective years under the various heads and the lapses, if any?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—A statement† showing the required particulars is placed on the table.

5. Mr. Gulam Ahmad Kalami, asked.—(i) Will Government be pleased to state—

(a) on whose recommendation and on what date and for what objects the establishment of a Model Anglo-Hindustani School at Bangalore was sanctioned;

(b) when the school was actually established and what annual expenditure was at first sanctioned for its maintenance; and

(c) what allotments have been made annually in the budget and what amounts actually spent for the purpose since the date of starting the school?

(ii) Are Government aware of the great dissatisfaction caused to the Muslim community by the unsatisfactory condition of the School—the only Lower Secondary

* Printed as Appendix A.

† Printed as Appendix B.

Anglo-Hindustani School in the State—owing to various causes, such as:—the non-appointment of a permanent and qualified Headmaster for nearly four years and the inefficiency of the staff of the school in general?

(iii) If no qualified Muslim teachers could be had owing to the low scale of salaries sanctioned, will Government be pleased to increase the salary of the Headmaster to Rs. 75—125, the scale sanctioned for the Anglo-Kannada School of the same standard at Bangalore?

(iv) In what building is the school located and is it fit for accommodating such an institution?

(v) On how many occasions was the school inspected and reported upon by the Inspectors of Schools and what have been their reports about the efficiency and usefulness of the school?

(vi) Has the present Inspector-General of Education ever visited the school and, if so, what particular steps has he taken to improve the state of the school?

(vii) Has the community made any representations to Government for efficiently equipping the school and, if so, what arrangements have been made to comply with the request?

(viii) Will all the papers in connection with the establishment and upkeep of the institution be made available to the members of this Council?

(ix) Will Government be pleased to appoint a Special Committee consisting of the Inspector-General as Chairman, the Circle Inspector of the Division as Vice-Chairman and the Inspector of Mahomedan Education as convener of the meetings with the Secretary of the Education Committee of the Economic Conference as additional official member and the Honorary Secretary of the Central Mahomedan Association, Bangalore, and myself as non-official additional members, to make thorough enquiries regarding the present state of the institution and to recommend ways and means for its improvement?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(i) (a) The school was sanctioned on the recommendation of the Inspector-General of Education on 30th March 1912, with the object of affording greater facilities to Mahomedan pupils to study English up to the Lower Secondary Standard.

(b) It was established on 4th June 1912, the expenditure originally sanctioned being Rs. 2,436 per annum.

(c) A statement* showing the information is laid on the table.

(ii) No. Every effort was made to procure a Mahomedan graduate for the post of Headmaster by advertisement in the Gazette and in other ways, but none came forward. So temporary arrangements were made and the question of appointing a qualified Headmaster other than a Mahomedan is under consideration.

(iii) The Anglo-Kannada School is a much larger institution. The question of revising the scale of pay for the Anglo-Mahomedan School will receive consideration.

(iv) The school is held in a Government building in Siddicutta. The building is not well suited for the purpose. Hence a new school house has been included in the building programme for the current official year and a site has been provisionally selected near the Bamboo Bazaar.

(v) The school has been regularly inspected by the Hindustani Inspector every year, who states that the wants are a good building and a graduate Headmaster and that the progress of the school is unsatisfactory.

(vi) The Inspector-General of Education has not seen the school at work. He is taking necessary steps to improve it.

(vii) No representations of the character mentioned have been received by Government. The subject was mooted in the Representative Assembly, 1914.

(viii) & (ix) Government do not consider it necessary to take action as suggested by the member.

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6. Mr. C. Narasimhaiya, B.A., B.L., asked.—Will Government be pleased to state—

(a) the actual cost incurred on and progress made, in the Minor Tanks Restoration Scheme for the calendar year ending with 31st December 1915;

(b) the cost of establishment charges for the same period;

(c) similar information in regard to the Mysore and Hassan Districts separately, and

(d) the aggregate number and probable cost of new projects in the Mysore and Hassan Districts sanctioned by the Government and Deputy Commissioners?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—

(a) Rs. 94,471.

(b) Rs. 79,949. The establishment charges include the cost of getting up estimates and other preparations for future years.

(c) District.	Irrigation.	Establishment.
Mysore	2,437	10,837
Hassan	5,895	9,577

A statement* showing the information required is placed on the table.

7. Mr. C. Narasimhaiya, B.A., B.L., asked.—Will Government be pleased to state—

(a) Whether they have fixed any scale of remission or suspension of land revenue in any locality for partial or total failure or destruction of crops on account of draught or any other cause;

(b) whether Government have allowed any such remission or suspension in any particular locality and in what proportion from the year 1910?

(c) If no scale is prescribed, will Government be pleased to fix one?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) No scale has been fixed but the principles and the policy of Government in the matter of granting remissions are laid down in Government Order No. 9792-800—Cir. 214, dated 5th March 1890, Government Order No. 9048-55—Pet. 151, dated 16th April 1897, and Government Order No. R. 1241-2—L. R. 331-06-4, dated 10th August 1907, copies of which will be laid on the table.

(b) Government have allowed such remissions and suspensions under the above rules in some cases in the year 1914-15, which was an exceptional year.

(c) Government do not consider it expedient to fix any definite scale but prefer to deal with each case on its merits.

8. Mr. B. K. Garudachar, asked.—i. Will Government be pleased to state—

(a) the number of Amrut Mahal bulls supplied to the District Boards and other local bodies for improving village cattle,

(b) the number of such breeding bulls now in use, and

(c) the number of villages they serve?

ii. Do Government consider that the number of bulls supplied is sufficient for the purpose?

iii. If not, will Government be pleased to take steps to provide each hobli in the first instance with at least one Amrut Mahal breeding bull?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—i. (a) Sixteen.

(b) Twelve were in use on the 30th June 1916.

(c) Information is not at present available.

ii. & iii. The matter is under correspondence between Government and District Boards.

9. Mr. B. K. Garudachar, asked.—(a) Are Government aware of the inconvenience and loss caused to merchants especially in Bangalore and the consequent

fall in the trade of this year owing to the Railway authorities not having placed a sufficient number of wagons at their disposal?

(b) Will Government be pleased to state if they have enquired into the matter and what action they have taken or will take to redress the grievance of the merchants?

Mr. D. M. Narasinga Rao, B.A., B.L., replied.—(a) Government are aware of difficulties in this respect, occasioned partly by war conditions.

(b) The Madras and Southern Mahratta Railway Company will be addressed in the matter if specific instances of inconvenience resulting from shortage of wagons are brought to notice.

10. Mr. B. V. Ramaswami Chetti, B.A., asked.—(a) Are Government aware of necessity for granting more largely scholarships and free studentships to boys of backward communities?

(b) Will Government be pleased to take steps, as in British India, to ascertain by enquiry what communities are backward in the State?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) Recently some additional facilities have been given and more are under contemplation.

(b) The proposal will receive consideration. Government will welcome definite suggestions in the matter.

11. Mr. S. Seetharamaiya, asked.—Will Government be pleased to state—

(a) whether any action has been taken on the "*Drainage Scheme of the Shimoga Town*," prepared several years ago by Mr. K. Krishna Iyengar (now Engineer-in-Chief, Mysore State Railways);

(b) if not, whether it is not desirable to give effect to the said scheme in view of the conditions of the Shimoga Town?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) The original drainage scheme was dropped owing to its excessive cost.

(b) The scheme since prepared by the Sanitary Engineer is being discussed with the Shimoga Municipal Board.

12. Mr. S. Seetharamaiya, asked.—(a) Will Government be pleased to state whether the Taluk Manual referred to by the Dewan in his address to the Representative Assembly in 1914, has been published?

(b) If not, when is it likely to be published?

(c) Has any staff been appointed for the compilation of the same?

(d) If so, when was it sanctioned and what is the expenditure incurred till now?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) The manual is in the press.

(b) It is likely to be ready in the course of a month or two.

(c) Yes.

(d) It was sanctioned in February 1914. An expenditure of Rs. 9,520 has been incurred till the end of March 1916, on account of the special establishment which is also engaged in the preparation of a Village Manual.

13. Mr. M. Venkatakrishnaiya, asked.—Will Government be pleased to state whether the rule governing the recruitment to the grade of Sub-Judges by alternate selection from among the civil servants and Munsiffs is not likely to affect the efficiency of Sub-Judges and whether the alternate selection of Sub-Judges from among the Munsiffs and the members of Bar would not serve the purpose better?

Mr. K. S. Chandrasekhara Aiyar, B.A., B.L., replied.—The existing rules were passed only a few years ago and Government consider that in the absence of further experience of their working no modification on the lines suggested is called for.

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14. **Mr. M. Venkatakrishnaiya, asked.**—Will Government be pleased to state whether it is not desirable to divest the Amildars of their police functions?

Mr. K. S. Chandrasekhara Aiyar, B.A., B.L., replied.—The question is under consideration along with the general question of separating judicial from executive functions.

15. **Mr. B. Venkatasamanna, asked.**—Will Government be pleased to state—

- (a) what the approximate cost of maintenance of the University will be;
- (b) whether any additional tax will be imposed for the purpose;
- (c) what the nature of that tax will be; and
- (d) whether the amount so collected will be ear-marked for education?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) The approximate additional expenditure will be about Rs. 1,61,200 per annum, exclusive of the initial cost on buildings and equipment.

(b), (c) & (d) Government do not intend at present to impose any additional tax for the purpose.

16. **Mr. B. Venkatasamanna, B.A., B.L., asked.**—Will Government be pleased to state—

(a) the reasons that contributed to the recent outbreak of fire at the Gold Fields;

- (b) the number of lives lost; and

(c) the compensation intended to be made to the dependents of the unfortunate victims?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) A detailed report from the Director, Department of Mines and Geology, is awaited.

(b) Three lives are reported to have been lost.

(c) The matter will receive due consideration after the detailed report is received.

17. **Mr. H. Narasinga Rao, asked.**—(a) In Civil and Criminal cases only one appeal is allowed and two in exceptional cases as against a large number of appeals in revenue cases. Will Government be pleased to state the reasons for this distinction?

(b) With a view to save public time and labour, will Government be pleased to consider the desirability of duly reducing the number of revenue appeals?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) The powers of appeal are now regulated according to the well-known general principle that an appeal should be from the decision of any officer to his immediate superior authority. This no doubt leads in actual practice to two and even three and four appeals being preferred in particular cases.

All cases, however, are not finally appealable to Government. This is restricted by Section 210 (2) of the Land Revenue Code.

(b) Government are aware of the inconvenience the present rules may sometimes cause. The question of amending them so as to restrict the right of appeal in Revenue cases is being considered.

18. **Mr. H. Narasinga Rao, asked.**—(a) Will Government be pleased to state why the rules framed by Government several years ago to regulate the appointments in the subordinate ministerial service are practically ignored in several departments?

(b) Is it not desirable to hold a competitive test to secure therefor men of character and ability?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) & (b) Government have no reason to believe that the rules are ignored as suggested. The question of amending the rules is engaging attention and the member's suggestion will be noted for consideration.

19. **Mr. H. Narasinga Rao, asked.**—(a) Will Government be pleased to state why rules have not yet been framed to regulate the distribution of water from the branches of the main irrigation channels?

(b) Are not landowners under such branches put to great inconvenience, annoyance and loss by unequal distribution of water and want of efficient control over the distribution?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) The question of framing rules is receiving attention but is fraught with difficulties owing to varying local conditions.

(b) The co-operation of landowners is also largely necessary to render any scheme of control effective.

20. **Mr. M. Chengiah Chetty, B.A., asked.**—(a) Considering the large number of Maramat works which have to be executed under the supervision of the Amildars, will Government be pleased to give Revenue Probationers some training in the D. P. W.?

(b) At present officials employed in the Secretariat and other departments are appointed as Amildars and Deputy Amildars. Do not Government consider it desirable to prescribe two months' training in a Taluk Office as a necessary qualification for the appointments?

Mr. A. R. Banerji, C.I.E., M.A., I.C.S., replied.—(a) Some training is necessary, but the staff is not large enough to arrange for it at present.

(b) Government will note the suggestion.

A Bill to amend the Mysore Muzrai Regulation, 1913.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I beg to move that leave be granted to introduce a Bill to amend the Mysore Muzrai Regulation, 1913.

The object of this measure is briefly as follows:—Section 38 of the Muzrai Regulation circumscribes and defines the jurisdiction of Civil Courts in regard to "matters in which a Muzrai officer or Government has power to pass any order or to take any action," which include cases of disputes about the office of pujari in a Muzrai Institution. There is no similar provision in the Regulation as regards pujari rights in private institutions; but on the strength of the Chief Commissioner's Notification of the 26th October 1854, which prohibited the institution of Civil suits to establish pujari rights, it was held by a Full Bench of the Mysore Chief Court in *Apajia vs. Beeragowda*, 18, Mysore Law Reports, 1, that the jurisdiction of the Civil Courts in such matters is excluded even as regards pujari rights in private temples which are not Government institutions and which are not under the management of the Muzrai Department. This decision was apparently overlooked when the Muzrai Regulation was drafted, and as there seems to be no sufficient reason why suits for pujari rights in non-Muzrai institutions should be excluded from the cognizance of the Civil Courts, it is proposed formally to repeal the Chief Commissioner's Notification in question, as in the Bill which it is sought to introduce.

Dewan Bahadur Mr. C. Srikantesvara Aiyar.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

A Bill to amend the Mysore Tramways Regulation.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I beg to move that the Bill to amend the Mysore Tramways Regulation, 1906, be read in Council.

The object of the Bill was explained when leave to introduce it was applied for in January last. Briefly, it is this: It is in contemplation to undertake the construction of an electric tramway in Bangalore by means of Government agency

or an agency employed directly by Government; and in order to do this, it is necessary for Government to reserve to itself the power to authorise such construction by any agency it deems fit, and also,—inasmuch as the provisions of the Tramways Regulation, 1906, have reference chiefly to construction by private agency,—the power to leave out such of those provisions as are unsuitable and to apply the rest with needful alterations. The above object is sought to be obtained by the addition of a new section to the Regulation, as in the Bill that is about to be read.

Rajasabhabushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—The next motion that stands in my name is that the Bill to amend the Mysore Tramways Regulation be not referred to a Select Committee, but that it be taken up and passed at a subsequent meeting of the Council.

On further consideration, I do not think it necessary to proceed with this motion. Though the Bill is in itself a short one consisting of a single clause, it has reference to the whole of the preceding sections of the Regulation, and it seems desirable that the whole of these sections should be scrutinised carefully with a view to see how far any of them are unsuitable to the case of construction by Government agency and what modifications are likely to be required in the others.

The language too of the proposed addition may possibly have to be changed as the result of such scrutiny.

I therefore request your permission, Sir, to withdraw the motion and to move, instead, that the Bill be referred to a Select Committee consisting of Messrs. K. P. Puttanna Chetty, C. S. Balasundaram Iyer, M. Venkatakrishnaiya and myself.

Rajasabhabushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—SIR,—I may say that I am more in agreement with the amended motion than with the original. Setting aside the prescribed formality is not always a wholesome procedure. There are many things to be done in the Select Committee stage and for this reason I support the amended proposition.

The motion was thereupon put to vote and passed unanimously.

A Bill to amend the law relating to Government and other Provident Funds.

Mr. A. R. Banerji.—SIR,—On the 8th January last, leave was granted by this Council to introduce a Bill to amend the law relating to Government and other Provident Funds. On that occasion, both the learned Mover and Seconder of the motion explained the general scope of the measure; and the seconder, Rajamantrapravina Dewan Bahadur J. S. Chakravarti in very eloquent terms described its necessity.

Without repeating all that has already been said, I may briefly refer to the present scope of the measure which is chiefly intended to benefit the employees of Railways owned by the State or District Boards and also those employed in the headquarter offices on railway duties. The Bill is drafted on the lines of the British Indian Provident Fund Act, IX of 1897, subject to the following variations. The present Bill is much wider in scope than the British Act inasmuch as its provisions are applicable to Provident Funds established for the benefit of employees of local authorities and also of institutions such as Muzrai, aided schools and also of registered companies, whereas the British Act confines itself to funds established by local authority.

Secondly, the British Indian Act extends the authority to pay the assets to the heir or nominee without production of a certificate up to a limit of Rs. 2,000. This limit has been reduced in the present Bill to Rs. 1,000.

There is besides, an additional provision for securing for deposits effective immunity from attachment.

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The Bill consists of 6 sections and I need refer to the most important of them, *viz.*, Sections 3, 4 and 6, which specifically deal with the main object of this legislation. Section 3 provides for payment by a simpler method dispensing with certificate up to a limit of Rs. 1,000. Section 4 gives the necessary protection against attachment; and Section 6 power to extend the provisions to Provident Funds other than Government Provident Funds, *viz.*, those organised by registered companies, District and Municipal Funds, Muzrai institutions and aided schools. The necessity for Provident Funds to benefit the employees of these bodies and institutions cannot be gainsaid: As already explained by the learned Financial Secretary, the system of Provident Funds is a combination of insurance and pension and the larger the number of employees who benefit by the system the better.

I now beg to move that the Bill be read in Council.

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti.—SIR,—The proposal now before the Council is that the Bill relating to Provident Funds be read in Council. I do not think there is any one in this Council who would differ as regards that proposition. The matter is important. In one sense, indeed, the matter is very pressing. When we last met I informed this Council that there were at that time about 1,800 members on the rolls of the Mysore State Provident Fund and that the monthly subscription aggregated about Rs. 5,000. At the present time the membership is about 2,200 and the monthly subscription also has proportionately risen. This is as regards the General Provident Fund for State servants which simply receives subscriptions and repays them with compound interest. Then there are other Provident Funds to which the employees and employers both contribute such as the Provident Fund for our Railway Employees to which the learned mover has referred, that of the Mysore Bank, etc. Some of them have been started, others are about to be started. As subscription to the Railway Provident Fund will be compulsory on certain classes of railway employees, the Railway Provident Fund which will be started from 1st July next will have a considerable number of members from the beginning. I am happy to inform this Council that through the grace of Providence there have been very few casualties in our Provident Funds up to this time. I wish and pray that such good fortune may continue. But from the rapid progress our provident fund schemes have made and are making it is clear that we should be prepared with all facilities for repayment, so that the heirs of subscribers may not be put to any hardship at a time when they are least able to bear any hardship. This Bill should, therefore, become Law as soon as possible. I have, therefore, much pleasure in seconding the proposition, *viz.*, that the Bill be read in Council.

Rajasabhabushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—I have great pleasure in supporting the motion. As I explained at the last meeting of this Council, the Bank of Mysore is about to institute a Provident Fund for its employees, the employees not only of the Offices in Bangalore but also in the out agencies at Mysore, Tiptur, Davangere, Shimoga, etc., where they have a large number of employees. The inclusion of a provision in this bill to apply its benefits to such institutions is not the least of its merits. I have therefore great pleasure in supporting the motion.

The motion was put to vote and passed.

Mr. A. R. Banerji.—SIR,—I now beg to move that the Bill to amend the law relating to Government and other Provident Funds be referred to a Select Committee consisting of Messrs. J. S. Chakravarti, K. P. Puttanna Chetty, C. S. Balasundaram Iyer, B. K. Garudachar and myself.

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

The Bill to amend the Tank Panchayet Regulation, 1911.

Mr. A. R. Banerji.—SIR,—The Government in their order dated the 11th December 1914 framed certain rules for the restoration of minor tanks and the maintenance of tanks in general. The question of the revision of the system under which the minor tanks come up for restoration has long engaged the consideration of Government and the rules were the result of that prolonged consideration. Legislative action was contemplated in the rules to give effect to the scheme in full and the learned member in charge, in applying for leave to introduce the Bill, fully explained to this Council the necessity for amendment on the 8th of January last. There are two measures to be read before the Council in this connection, both very short and clear.

The first, the Tank Panchayet amendment Regulation does two things. It re-classifies minor tanks as being those which have an atchkat of Rs. 300 and under, in conformity with the order of 1904. Secondly, it repeals the section in the old Act dividing the share of work to be done by the raiyats and by Government, Section 16 (2); both the earth-work as well as stone and revetment work being entrusted to the Panchayet under the amendment, according to the rules of 1911, (Rule 9) under which raiyats contribute one-third and Government two-thirds of the total cost.

In the previous discussion a question was raised as to whether it is desirable to amend the Act to follow the rules or whether it is necessary to amend the rules and leave the Act alone. Well, Sir, I think a careful consideration of the whole question will settle the doubt at once, and I need only urge that the procedure now proposed is simpler and on the whole more beneficial to the raiyats. Measurement and valuation of different kinds of work for apportionment of cost is not always easy. The simpler method is to fix a certain proportion roughly. The difficulty that may be experienced in the matter of levying contribution fixed and acting on the voice of the two-thirds majority referred to in Section 16, have been met with and satisfied by a new measure.

I now beg to move that this bill called the Tank Panchayet Amendment Bill be read in Council.

Mr. C. S. Balasundaram Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

Mr. A. R. Banerji.—SIR,—I beg to move that the Bill to amend the Tank Panchayet Regulation, 1911, be referred to a Select Committee consisting of Messrs. K. S. Doraswami Iyer, B. K. Garudachar, B. Narasinga Rao, C. S. Doraswami Iyer and myself.

Mr. C. S. Balasundaram Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

Minor Tank Restoration Bill.

Mr. A. R. Banerji.—SIR,—After what has been said in support of my motion that the Tank Panchayet Regulation Amendment Bill be read in Council, I need not detain the Council with any detailed explanation for the necessity of the measure now before us, namely, the Minor Tank Restoration Bill; except that it has been found necessary in order to give effect to the scheme sanctioned by Government for the restoration of minor tanks, to enact that the consent of the majority will bind the minority and to provide that the contribution of the raiyats may be collected as an arrear of land revenue. As already explained by the learned Member who was in charge of the Bill when leave was granted by the Council to introduce it, necessary safeguards have been provided for, to see that there is proper record of the views of the majority and that no summary procedure is followed in making that record.

I now beg to move that the Bill be read in Council.

Mr. C. S. Balasundaram Iyer.—SIR,—I beg to second the motion.

Rajasabhabhushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—SIR,—Both the provisions referred to by the mover are very wholesome, namely, making the consent of the majority binding upon the dissenting minority and the recovery of the amount of contribution as an arrear of land revenue. The absence of such a provision has enabled one only dissenting member to wreck the entire project for the restoration of a village tank, even though a hundred had agreed. Several such cases, I am sure, are within the knowledge of the District Officers here present and the necessity for such a bill is very great to the village community. I therefore heartily support it.

The motion was put to vote and passed.

Mr. A. R. Banerji.—SIR,—I beg to move that the Minor Tanks Restoration Bill be referred to a Select Committee consisting of Messrs. K. S. Doraswami Iyer, B. K. Garudachar, B. Narasinga Rao, C. S. Doraswami Iyer and myself.

Mr. C. S. Balasundaram Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

The Transfer of Property Bill.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I beg to move that the Bill to amend the law relating to the Transfer of Property by act of parties be read in Council.

As mentioned in the statement of objects and reasons published along with the Bill, this measure has been introduced practically at the request of the public, as urged at successive meetings of the Representative Assembly by the members, and on the recommendation of the Judges of the Chief Court made at various times.

The law contained in the Bill is by no means new to the people of Mysore; for, though the Act itself is not in force here, the general principles embodied in it are already being recognised by the Courts of the State; that is to say, they are recognised whenever they can be regarded as the expression of natural principles of justice and equity, as distinguished from the products merely of express legislation or the result of a course of decisions foreign to the spirit of the antecedent law in force here. This circumstance, that our Courts are already in practice disposed to follow most of the rules contained in the Transfer of Property Act, has sometimes been put forward as an objection to its formal introduction as part of the law of the land; but this it seems to me is not a very reasonable attitude. On the contrary, the fact that a certain body of principles is acceptable in itself and is being followed by our Courts in practice, is a powerful reason for our setting about to codify these principles wherever possible for the guidance of the Courts and the public. Again, difficulty is sometimes felt in deciding whether a particular rule is or is not in accordance with natural principles; and, if it can be done, it is much better in such cases for the legislature to step in and define what are the rules to be followed than that it should be left to the Courts to exercise their discretion in varying modes when cases actually arise. Lastly, we have before us the example of the Indian Legislature in the matter; and it will be admitted that our task has been made considerably easy by the fact that we have before us the model of the Act that they have adopted in British India on the subject.

The fact, then, that the Bill about to be introduced is based on the Indian Transfer of Property Act, the provisions of which are more or less familiar to Courts, litigants and business men in Mysore, renders it unnecessary for me now to dilate at any length on its provisions.

Most of the sections in the earlier part of the Bill are either enunciations of equitable principles which are universally applicable to the transfer of property, or are rules called for by the changing conditions and needs of the time.

The later chapters deal with various special modes of transfer; and here one of the most important changes that will be effected by the Bill in the law hitherto

prevailing in the State is that relating to the execution and compulsory registration of instruments of sale, mortgage, etc. Members are aware that the Registration Regulation does not itself require that any transactions should be in writing; all that it provides is that, if there are documents purporting to create a right, title or interest of the value of Rs. 100 or upwards to or in immoveable property, such documents must be registered. In the Bill that is now before us, writing as well as registration is made compulsory in all cases where the price or the principal money secured is Rs. 100 or upwards, and also in cases of the transfer of a reversion or other intangible thing though its value may be less than Rs. 100.

Another material innovation is that contained in the third clause of Section 59, in regard to what is known as equitable mortgages or mortgages by deposit of title deeds. In British India the operation of this provision is confined to the Presidency Towns and to certain other important commercial centres where the practice of raising money on such securities has been long established; and it was apparently not extended to other places as not being in consonance with the policy of the registration law and as leading to the evasion of stamp duty. The desirability of introducing a similar provision here has been urged upon Government by, among other bodies, the Bank of Mysore, on the ground that it will greatly facilitate banking transactions. There is at present a certain amount of doubt as to whether mortgages by deposit of title deeds are or are not valid according to the law of Mysore; on the one hand, there is no express judicial decision or established custom recognising their validity; nor, on the other, is there any statute forbidding the creation of such mortgages. What, therefore, is proposed to be done is to enact positively that, in such areas as may be notified by Government, a mortgage may be created by delivery to the creditor of deeds of title to immoveable property with intent to create a security thereon.

I may also draw the attention of the Council to the omission from the Bill of section 69 of the Indian Act in regard to the exercise of a power of sale by the mortgagee without the intervention of the Court. It has not been considered desirable to introduce this special provision, and the omission is believed to be in accordance with the law in force here.

I need not dwell at further length on the clauses of this Bill. If any particular provision is considered unsuitable, the necessity for the same may be examined by the Select Committee and necessary amendments made.

In conclusion I would add that this Bill, in conjunction with the Contract Act which has been in force in Mysore for over thirty-five years, will afford us what is in effect a complete Code of law in regard to transfers *inter vivos*.

Mr. H. Narasinga Rao.—SIR,—I beg to second the motion.

Mr. S. Seetharamaiya.—SIR,—I beg to support this motion. The need for a Bill of the kind was being felt for the past several years and time has now come for supplying it.

The Bill when it becomes law will no doubt put an end to the confusion and uncertainty prevailing in the existing law and practice in our State regarding transactions connected with immoveables. But it however requires to be carefully considered and modified in certain respects so as to suit the practice and requirements of the country.

For instance there is a transaction called a hypothecation known to us all here. The ingredients of this transaction exactly correspond with the ingredients of a simple mortgage as defined in the Bill.

Though the Limitation Regulation provides 60 years time for a suit on a simple mortgage, the hypothecation suits have been uniformly held by our Courts to have been governed by a twelve years' limitation and this is the law prevailing here and there is no hardship caused to any body by this.

A decree on a hypothecation is treated as a money decree and there is no necessity for a preliminary decree first and then a final decree as in the case of mortgages. This is also quite convenient to all concerned here.

In the interpretation clause (Section 3 of the Bill), a reference is however made to hypothecation and mortgage, apparently indicating a difference between

them, but no where else in the Bill anything is said about hypothecation nor any reference made to it.

As *per* clause 59 of the Bill, even a simple mortgage below Rs. 100 will have to be registered and attested by at least two witnesses.

This would be too much of a technicality and hardship for the poorer and ignorant classes to observe is what one of our honorable members represented when the Bill was introduced.

I hope all these difficulties and inconveniences will be duly considered and suitable provisions made by the Select Committee through whose hands the Bill will have to pass, before it is recommended to become a law.

The motion was put to vote and passed.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I now beg to move that the Transfer of Property Bill be referred to a Select Committee consisting of Messrs. K. P. Puttanna Chetty, C. S. Doraswami Iyer, H. Narasinga Rao, B. Narasinga Rao, S. Seetharamaia, B. K. Garudachar and myself. It will be seen that, in order that as many interests as possible may be represented, the Committee proposed is a fairly large one.

Mr. H. Narasinga Rao.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

The Criminal Tribes Bill.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I beg to move that the Bill for the registration, surveillance and control of Criminal Tribes be read in Council.

The necessity for introducing this measure was explained at the last meeting. Legislation for the effective control of Criminal Tribes is being undertaken in British India since 1871, and the law there was revised for the last time in 1911 in accordance with the recommendations of the Police Commission. As an incidental result there is apparently a tendency on the part of criminal tribes to migrate from British India to Native States, where the law is not so rigorous. On this point I cannot do better than quote the following observations of the Police Commission in para 138 of their Report:—"It is essential to the success of any measures for the control of criminal tribes and gangs that they should be extended to Native States, for if they are restricted to British India they may result in forcing these classes to migrate to Native States, where they will with more impunity carry on their criminal operations." As a matter of fact, in the last report on the administration of the Police Department in the Mysore State, the Inspector-General has referred to the large influx of stray criminal gangs into the State from outside on account of the working of the Criminal Tribes Act in the adjoining British Territory and in the Dominions of His Highness the Nizam of Hyderabad. In para 47 of the report he has furnished particulars which show that there are at present as many as 975 permanent gangs in the Mysore State numbering in all over 32,000 individuals, besides 244 wandering gangs numbering nearly 17,000 persons. As the movements of these criminal gangs have increased to an alarming extent in recent years, and as the existing Gang Rules are by no means effective enough to prevent the men escaping and committing crimes, the Inspector-General has strongly urged the introduction of the Criminal Tribes Act into the State as a matter of imperative necessity. The measure now before the Council is based upon that Act, and it allows of the exercise of a much greater degree of control and supervision over the movements of criminal gangs.

I need only dwell on this occasion on the salient points in the Bill. It provides, first, for the notification of a tribe, gang, or class of persons as a criminal tribe, and then for the registration of its members, and for taking their finger impressions. Sufficient provision is also made for registering only a part of a tribe. It is believed that in the case of the more settled tribes this measure of registration alone will be sufficient. Where registration is insufficient, recourse may be had to one of two courses, either to the restriction of the movements of the tribe within certain specified areas, (which is an exceedingly strong deterrent), or, in the last re-

sort and if absolutely necessary for the protection of life and property, to the settlement of the tribe in a fixed place of residence. Power is taken in these respects, as well as the usual power to frame rules to carry out the purposes and objects of the Bill.

The Bill, it will be seen, will be useful not only as providing a more effective mode of control over the members of criminal tribes, but also as tending ultimately to their reformation by putting a wholesome check on their wanderings. If their movements are confined to places where the demand for labour is keen, they are likely to settle down to honest employment, and thus turn out in course of time to be useful members of society.

Questions as to reformatory settlements and schools may be considered after the Bill passes into law.

The provisions relating to penalties do not call for special remark, except that an enhanced punishment is prescribed for certain offences committed after previous conviction, and that a duty of furnishing information as to the movements, etc., of criminal gangs is cast upon village headman, village watchman and occupiers of land in certain cases.

With these remarks I beg to move that the Bill be read in Council.

Dewan Bahadur Mr. C. Srikantesvara Aiyar.—SIR,—I beg to second the motion.

Mr. C. Narasimhaiya.—SIR,—I desire to make one or two observations.

In Section 27 of this bill it is said that every notification shall be conclusive proof with regard to the nature of the gang; and that even a Court of Justice cannot question whether the gang really belongs to a criminal tribe or not. The nature of the gang should be taken for granted the moment a notification is published. The sources of information to the Government are the police. It is they that give information about the movements of the gang and about the nature of the offences committed by them. Section 3 states, "If the Government has reason to believe that any tribe, gang or class of persons is addicted to systematic commission of non-bailable offences, it may, by notification.....declare that such tribe.....is a criminal tribe....." Is it not clear how these persons can be caught hold of by the Police. Is it sufficient for Government, acting simply on the police report, to say that the gang belongs to a criminal tribe? Even in very worst cases, a criminal is given every facility to establish his innocence. But in the case in question he has no opportunity of showing that he is not a member of the criminal gang addicted to the commission of offences. I think he must be given such an opportunity. At present the Bill is wanting in that particular.

There is yet another point. Even in worst cases an appeal is allowed to higher authorities. But there is no such provision in this Bill. I think it is absolutely necessary that such a provision should be made in favor of persons who may have to appeal.

Mr. M. Karnik Krishnamurthi Rao.—SIR,—As regards the Bill to amend the Law relating to the registration, surveillance and control of criminal tribes in the State, I regret that the statement of objects and reasons is so vague and so meagre in the details essential to enable one to see whether a Bill like this is necessary at all. No figures of statistics are given as to the strength of the criminal tribes of the State, their distribution, and the havoc rendered by them to person and property periodically. My fear is that the Bill ultimately places too much power in the hands of the Police (for, after all, it is the Police that take the initiative in all these matters) to harass poor and illiterate people of the lower strata of our complex society. This is well borne out by the working of Section 23 and sub-section (2) of Section 25. The vastness and the density of population of British Districts are far greater than ours, and I see no reason for our copying a Bill for which there is no clear scope in our State. At any rate, I should welcome statistics, approximate at least, bearing upon the points mentioned above. Then the members of the Council and the public will have the necessary data for them to express an opinion upon.

Rajasabhabhushana Dewan Bahadur Mr. K. P. Puttanna Chetty.—SIR,—I may be permitted to offer a few remarks on one or two points referred to by the previous speakers. It is a well-known fact that those gangs, while camping in one particular place, commit depredations elsewhere. At present the police possess no statutory power to compel these gangs to report their movements to the police station or to give their finger impressions. The police cannot place any effectual check on the movements of these gangs. Suppose there is a gang of 100 people camping here. They are fleet of foot; if they are here today, they are a hundred miles off tomorrow. If it is expected that one police man should watch those people, you know what kind of vigilance it would be. The gang being so elusive, often times, the police man on guard-duty himself becomes an unconscious witness in their favor, when the members thereof have as a matter of fact committed depredations in some distant place. In these circumstances a Bill like this is very necessary to efficiently bring these gangs under control. Here in Bangalore City we had some time ago a gang of Beluchas who can be described as licensed thieves because the police could not effectively deal with them. They were experts in the art of stealing fowls. No fowl in any corner of the city was free from their clutches. Such are the difficulties now experienced in the absence of a measure like the one under consideration.

I also think, Sir, that along with the proposed process of restraint a serious attempt should be made to reclaim these criminal tribes. In parts of British India, such a thing has been done with great success. Here, in Mysore, I believe Mr. L. Krishna Rao drew up a scheme for the reclamation of such people by giving them various concessions. I think some such thing should be done along with a repressive measure of this kind.

There is no doubt that such a Regulation is urgently called for. It is true a great deal of power will be put into the hands of the police. Much, however, depends on the powers of supervision exercised by the higher officers. I have no reason to think that supervision is not at present properly exercised. The good work done by the police in the handling of criminal tribes in the past has been immense. It is through their efforts that the *Lambanies* who were known to be very great depredators as a class have, to day, taken to agriculture and other peaceful avocations. But still the old Adam is strong in them and they break out into crimes of robbery and violence.

As for the wandering gangs, they are a perpetual menace to the country. To bring them under effective control is the greatest task of the police. Policemen are generally baffled in their attempts to catch them. Any piece of legislation calculated to bring these tribes within the four corners of the law would be welcome. I have therefore great pleasure in supporting this motion.

Mr. S. Seetharamaiya.—SIR,—It is true that a legislation of this kind is necessary to control the most deplorable actions of the criminal tribes that now and then rush into this country from the adjoining British territory and commit atrocious acts. But I am of opinion that the ordinary liberty that is the birthright of every human being, should not be denied to these people. Even amongst the worst classes of the criminal gangs, there may be innocent people. A mere declaration in the official Gazette that a certain class of people, belong to a certain criminal tribe (as the provision now stands in the Bill), should not, I think, debar individuals of that class from putting forth their claims to liberty. I am, for making a provision in this Bill, that opportunity should be given them to show that they do not belong to the criminal gang.

Dewan Bahadur Mr. C. Srikantesvara Aiyar.—SIR,—There appears to be a slight misapprehension in the minds of some members of this Council with regard to the objects and scope of this measure. It is not intended that every tribe should be notified. Our trouble now is, that we can only watch the movements of the gangs under the Gang Rules but we cannot bring them under effective control so as to prevent them from committing depredations. The proposed measure aims at closer supervision over only perpetual criminals. It is not the casual or ordinary criminals that are sought to be brought under control, but only professional criminals such as the *pamloras* who were caught the other day. There is a

The Mysore Arbitration Bill

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I beg to move that the rules of business be suspended in order to enable me to move that the Arbitration Bill be read in Council. Rule 33 requires fifteen clear days' notice between the date of publication of a Bill and its introduction in Council; but this it has not been possible to arrange for in the present case, and it is necessary that this Bill, which is intimately connected with the Companies Bill, should be taken up simultaneously with it.

I assure the Council that I should not have made the motion if it could possibly have been avoided. The Bill is non-contentious so far as its principles are concerned, and there will be ample opportunity in Select Committee for the considerations of any changes that may be required in regard to its details.

Mr. C. S. Doraswami Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I beg to move that the Bill to amend the law relating to Arbitration, which has already been published in the Gazette under the orders of the President, be read in Council.

The Bill is based entirely on the Indian Arbitration Act, 1899, and is called for by the same reason as led to the enactment of the latter measure, namely, the inadequacy of the existing law. The provisions on the subject of arbitration, contained in the Contract and Specific Relief Acts, are of a negative kind, amounting as they do merely to this, that if a person who has contracted to refer to arbitration any dispute that may arise between him and another, refuses to do so, his contract will be a bar to his afterwards bringing a suit in respect of the matter which he originally agreed so to refer. These provisions are also ineffective in practice, for the recalcitrant party has, as a rule, only to remain inactive in order to be beyond the reach of the other party. The provisions contained in the Code of Civil Procedure (namely, Section 89 and the second Schedule), while aiming at what is required, are themselves defective in two respects. Firstly, there is some doubt and difference of opinion as to whether they apply only to disputes which have arisen at the time of the agreement to refer or also to future disputes; and secondly, they require the agreement to refer either to name the particular arbitrator or to leave the Court to appoint one. Instead of merely amending the Code of Civil Procedure, a separate Bill is introduced for the reason that it relates only to arbitration in disputes where no suit is pending; in other words, to arbitration out of Court, and not to references to arbitration in the course of a suit. The introduction of the Companies Bill, which is pending before the Council, necessitates the simultaneous passing of the present Bill, the provisions of which have to be made applicable to arbitrations by Companies. The Bill, being intended primarily for mercantile communities, will not at the outset apply to the whole State, but will be extended to selected areas by notification.

I may mention the following salient points of the Bill. It is provided that a submission to arbitration may cover future as well as existing disputes, and it will not be necessary for the parties to name their arbitrator in the agreement to refer. In a Schedule to the Bill has been inserted a set of conditions which are to be implied in every submission which does not contain provisions to the contrary; but the parties are, of course, free to vary them if they like. A few simple forms have been appended which can be varied as required but which may be of use to non-professional arbitrators.

I beg to move that the Bill be read in Council.

Mr. C. S. Doraswami Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I now beg to move that the Arbitration Bill be referred to a Select Committee consisting of Messrs. P. Raghavendra Rao, M. Chengiah Chetty, C. S. Doraswami Iyer, H. Narasinga Rao, S. Sitaraniya, B. K. Garudachar and myself.

similar law in British India. When that law is put into practice in the frontier British territories, these criminals escape into Mysore territory where they are beyond the clutches of the British law. All that we want to do is to take reciprocal action. If we have the same law as they have in British India then these criminals will not come to Mysore territory but would like to remain where they are and submit themselves to the treatment to which they are accustomed. For instance, the other day, we had a gang of *Kabulies* who stole every fowl they could lay their hands on. If we have a law like the one proposed, we can effectively deal with them. We can guard against such people with this law. Now, they can go wherever they want. Individual cases are not included at all because they can be effectively handled. When first of all a gang comes, unless it happens to be a gang of exceptionally bad reputation, we won't propose to bring it under the law. If we have to report them to Government, we have to adduce sufficient reason. Moreover, a legislation of this kind will prevent the frequent migration of the gangs into our territory. Now a gang that is under surveillance suddenly runs away and we have no power to punish it. When the law is passed, if a person who promises to stay in one place runs away afterwards, that is positive proof that he is a suspicious character and he will be booked. The Regulation itself is a Criminal Tribes Regulation and unless the gang comes under professional criminals, it will not come under the Regulation.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—It has also to be observed that Section 19 provides for rules being framed to carry out the objects of the Regulation. This is a measure affecting the security of the State and it is only the members of a community addicted to criminal practices that are proposed to be brought under the Regulation. The Government, which publishes the notification, will be at liberty to withdraw it under Section 19.

The motion was put to vote and passed.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I now beg to move that the Bill be referred to a Select Committee consisting of Messrs. K. P. Puttanna Chetty, C. Srikantesvara Aiyar, C. S. Doraswami Iyer, C. S. Balasundaram Iyer, Gulam Ahmad Kalami, C. Narasimhaiya and myself.

Dewan Bahadur Mr. C. Srikantesvara Aiyar.—SIR,—I beg to second the motion. The motion was put to vote and passed.

The Mysore Companies Bill.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I beg to move that the Bill to amend the law relating to Trading Companies and other Associations be read in Council.

At the last meeting of the Council, leave was obtained to introduce the Bill, and it has since been published in the Gazette, and I believe a copy has been sent to each member.

The necessity for the introduction of the measure has been briefly explained in the statement of objects and reasons, and also in the speeches made by the learned mover and learned seconder at the last meeting. Under the companies system a great stimulus has been given to commercial undertakings in the West, trade has widely developed, and as a consequence the wealth of the communities concerned has been largely augmented. In India also there are indications of the same tendency, and it is recognised to be the duty of Government to do what it can to promote genuine commercial enterprise. Legislation in respect of companies has both in England and in India proceeded on certain well defined principles. They are, first, the avoidance as far as possible of direct interference by Government in the management and control of companies, and, secondly, the safeguarding of the interests of investors and creditors by providing for a full measure of publicity regarding the promotion and operation of Trading Companies. In the Bill before us, which is based almost entirely on the British Indian Act, VII of 1913, which again closely follows the English Act of 1908, these principles have been closely kept in view.

I shall not take up the time of the Council by going over the various new provisions in the Bill, but shall confine myself to a word or two on a few of the more important ones.

With regard to the appointment of Directors, it is provided that no person shall be appointed or advertised as a director without his written consent; and where a qualification clause is inserted in the articles, he is required to obtain his qualification within two months after his appointment.

Detailed provisions are enacted with regard to the filing of copies of prospectuses issued and with regard to the information to be embodied in every such prospectus, the object being to preserve an authentic record of the terms on which the public have been invited to subscribe for shares or debentures, to compel the disclosure of facts necessary for investors to know, and to secure that the directors accept responsibility for statements made in the prospectus.

Restrictions on the allotment of share capital are imposed with a view to safeguard the interests of applicants for shares; one of them is that the amount fixed as minimum subscription shall have been subscribed, and another, that the sum payable on application shall have been actually paid up.

Under the existing law, as soon as a company is incorporated by registration it can proceed to business; but in order to secure a certain degree of substantiality in a company before it enters into agreements with outsiders or obtains money by borrowing, certain restrictions are now proposed, such as, that shares to an amount not less than the minimum subscription shall have been allotted, and that the directors shall have paid the allotment money due on their shares. The Registrar will, on the filing of a declaration that these conditions have been complied with, issue a certificate that the company is entitled to commence business; and the company can thereupon proceed to undertake business.

The provisions as to auditors are among the most important in the Bill. Under the law as it stands, any one may be appointed as an auditor and there is no qualifying test. This state of things is an undesirable one in the interests of share-holders as well as of the companies themselves. The audit of companies will in future be performed only by professional auditors; and the Bill provides for laying down their qualifications, and also specifies their powers and duties.

The form of balance sheet has been revised, and information of a more definite character has been directed to be furnished. The object is to show an intending investor the general position of the company.

One other important change in the new Bill is the recognition of "private companies" so called, and the conferring on them of certain privileges to which they are not entitled under the existing law.

There are various other more or less important provisions in the Bill, but I cannot dwell on them now. The details of the measure may be discussed in Select Committee. The legislation proposed is on the whole a well-thought-out one, based on sound principles, and as such I beg to move that the Bill be read in Council.

Mr. C. S. Doraswami Iyer.—SIR,—On the last occasion when I seconded the motion, I had given my reasons in support of the general principles involved in the measure. The learned mover has dealt with the Bill exhaustively. At this stage it is unnecessary for me to say more and I content myself with seconding the motion.

The motion was put to vote and passed.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—Now that the Bill has been read in Council, I beg to move that it be referred to a Select Committee consisting of Messrs. P. Raghavendra Rao, M. Chengaiya Chetty, C. S. Doraswami Iyer, H. Narasinga Rao, B. Seetaramaiya, B. K. Garudachar and myself.

Mr. C. S. Doraswami Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

The Mysore Arbitration Bill.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I beg to move that the rules of business be suspended in order to enable me to move that the Arbitration Bill be read in Council. Rule 33 requires fifteen clear days' notice between the date of publication of a Bill and its introduction in Council; but this it has not been possible to arrange for in the present case, and it is necessary that this Bill, which is intimately connected with the Companies Bill, should be taken up simultaneously with it.

I assure the Council that I should not have made the motion if it could possibly have been avoided. The Bill is non-contentious so far as its principles are concerned, and there will be ample opportunity in Select Committee for the considerations of any changes that may be required in regard to its details.

Mr. C. S. Dorasawmi Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I beg to move that the Bill to amend the law relating to Arbitration, which has already been published in the Gazette under the orders of the President, be read in Council.

The Bill is based entirely on the Indian Arbitration Act, 1899, and is called forth by the same reason as led to the enactment of the latter measure, namely, the inadequacy of the existing law. The provisions on the subject of arbitration, contained in the Contract and Specific Relief Acts, are of a negative kind, amounting as they do merely to this, that if a person who has contracted to refer to arbitration any dispute that may arise between him and another, refuses to do so, his contract will be a bar to his afterwards bringing a suit in respect of the matter which he originally agreed so to refer. These provisions are also ineffective in practice, for the recusant party has, as a rule, only to remain inactive in order to be beyond the reach of the other party. The provisions contained in the Code of Civil Procedure (namely, Section 89 and the second Schedule), while aiming at what is required, are themselves defective in two respects. Firstly, there is some doubt and difference of opinion as to whether they apply only to disputes which have arisen at the time of the agreement to refer or also to future disputes; and secondly, they require the agreement to refer either to name the particular arbitrator or to leave the Court to appoint one. Instead of merely amending the Code of Civil Procedure, a separate Bill is introduced for the reason that it relates only to arbitration in disputes where no suit is pending; in other words, to arbitration out of Court, and not to references to arbitration in the course of a suit. The introduction of the Companies Bill, which is pending before the Council, necessitates the simultaneous passing of the present Bill, the provisions of which have to be made applicable to arbitrations by Companies. The Bill, being intended primarily for mercantile communities, will not at the outset apply to the whole State, but will be extended to selected areas by notification.

I may mention the following salient points of the Bill. It is provided that a submission to arbitration may cover future as well as existing disputes, and it will not be necessary for the parties to name their arbitrator in the agreement to refer. In a Schedule to the Bill has been inserted a set of conditions which are to be implied in every submission which does not contain provisions to the contrary; but the parties are, of course, free to vary them if they like. A few simple forms have been appended which can be varied as required but which may be of use to non-professional arbitrators.

I beg to move that the Bill be read in Council.

Mr. C. S. Doraswami Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I now beg to move that the Arbitration Bill be referred to a Select Committee consisting of Messrs. P. Raghavendra Rao, M. Chengiah Chetty, C. S. Doraswami Iyer, H. Narasinga Rao, S. Sitaramaiya, B. K. Garudachar and myself.

Mr. C. S. Doraswamy Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

The Bill further to amend the Mysore Land Revenue Code, 1888.

Mr. A. R. Banerji.—SIR,—During the last session of this Council, a Bill to amend the Mysore Land Revenue Code, 1888, was read in Council and referred to a Select Committee.

The amendment proposed in the Bill was intended to introduce a modification in Section 54 of the Land Revenue Code, corresponding to Section 56 of the Bombay Act. The bill was first published on the 27th October 1915 and in the Statement of Objects and Reasons, the necessity for this measure was clearly explained. It is stated therein that Section 54 as it now stands would enable claimants to prior rights and equities not only to enter on resumed lands but also to dispute the title of subsequent occupants and that it was therefore necessary both in the interests of the public revenue and to afford protection to subsequent interests in land to amend the section. This interpretation was based on a decision of the Mysore Chief Court. Now the Select Committee recommend the retention of the words "by the occupant or holder or any of his predecessors in title or in anywise subsisting against such occupant or holder" occurring in the present section, in lieu of the words "in favour of any person other than Government in respect of such occupancy or holding," on the ground that the former will be wider than the terms of the latter. It has already been explained before this Council that there is one point in which the amendment differs from the Bombay Act, Section 56, viz., that when the land is restored to the defaulter concerned, it will not be free from all encumbrances. The reason for this is obvious, because defaulters cannot be allowed to gain by their own wrongs.

In this connection I may be permitted to refer to one or two observations made during the discussion of the same subject in the Bombay Legislative Council. Some of the non-official members observed that it was not fair that a defaulter should benefit by his own fault and be put in a better position than he was originally. One of the Hon'ble Members said "Instances have already occurred in which the raiyat, with the object of defeating an encumbrance, has made default in paying assessment, and has thus courted a forfeiture in the hope of getting rid of the encumbrance. It could not be the intention of Government to put such a premium on fraud." Another non-official member said "If the mortgagor by non-payment of his rent could get the property forfeited and obtain it himself free of the mortgage, he is much benefited in making a breach of his contractual duty to his mortgagee and omitting to pay the assessment." Lastly when the Hon'ble Member in charge of the bill met all the objections brought forward against the bill proposed that "unless the Collector otherwise directs" be added to Section 15 between the words "shall" and "be deemed to be freed." He said "the object of this amendment is to add a further safeguard against fraud on the part of an occupant against his mortgagee. We have already sought to prevent such a result, and to any person who is interested in the land full opportunity of maintaining that interest is given by providing that notice of forfeiture shall be given. But it is just possible that in some cases though a person may have an interest in the land he has through some oversight not taken steps to maintain it; and if this comes to the notice of the Collector we wish him to have power to direct that in such a case rights shall not be extinguished by the forfeiture."

In the present Bill we go slightly beyond the Bombay Act in enacting that when the land is restored to the defaulter he shall not be benefited by the extinguishment of prior rights which otherwise automatically follows.

With these words I beg to move that the report of the Select Committee on the Bill further to amend the Mysore Land Revenue Code, 1888, together with the Bill, as amended by them be considered in Council.

Mr. C. S. Balasundaram Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

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Mr. A. R. Banerji.—SIR,—I now beg to move that the Bill as amended be taken up and passed at a subsequent meeting of the Council.

Mr. C. S. Balasundaram Iyer.—SIR,—I beg to second the motion.

The motion was put to vote and passed.

The Bill to amend the Mysore Land Acquisition Regulation, 1894.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—I beg to present the report of the Select Committee appointed to consider the Bill to amend the Mysore Land Acquisition Regulation, 1894; and to move that their report together with the Bill as amended by them be taken into consideration at once. In this connection I would suggest a small verbal alteration, namely that "and" be substituted for "or" in the clause as proposed to be amended.

Mr. C. S. Doraswamy Iyer.—SIR,—I beg to second the motion.

Mr. M. Karnick Krishnamurti Rao.—SIR,—As regards the amendment proposed by the Select Committee in sub-section (c) of Section III of the Regulation I am of opinion that considering the gravity and seriousness involved in the acquisition of land by Government from private parties, and considering also that unlike as in the past, sub-divisions now a days are much smaller in extent than before and Amildars and Probationary Assistant Commissioners are often posted to the charge of such Revenue Sub-Divisions, the Select Committee would do well to continue the *status quo*, and not allow any subordinate officer to do the duties. Such practice is not in existence anywhere in India and so I see no reason for such a change. Most of the cases involve controversial issues, with which the superior tact, the wider experience and the higher status of the head of a district can be better expected to cope than the training and status of a subordinate officer. In expressing opinion like this I have the interest of both the Government and the public at heart: the former will gain by lessened litigation, and the latter by greater trustfulness in the equity of the proceedings undertaken.

Mr. C. S. Doraswamy Iyer.—SIR,—With reference to the remarks of the last speaker, I may be permitted to mention that this aspect of the question was also considered by the Select Committee. In fact, the Select Committee thought that powers which were intended to be exercised by the Deputy Commissioner ought not to be lightly entrusted to subordinate officers; and I was one of those who said that the Bill might perhaps be dropped. But the late First Member Mr. H. V. Nanjundayya explained that it was intended to take this power not for the purpose of relieving altogether the powers and responsibilities vested in the Deputy Commissioners but to meet emergencies and avoid delays. He cited cases of the acquisition of lands of about less than quarter of an acre in extent involving a sum of Rs. 15 or 20 and added that the time of the Deputy Commissioner ought not to be wasted in acquisition of this petty kind. He also said that the interests of the owners of such lands were quite safe in the hands of the Revenue Sub-Division officers, who would be guided by suitable rules framed under the Regulation.

For these reasons, the Select Committee thought that the amendment might be accepted with a view to enable Government to deal with unimportant cases through the Revenue Sub-Division Officers instead of the Deputy Commissioners.

Mr. S. Sitaramaiya.—SIR,—A general provision like this may be availed of in all cases. When there is no restriction allowed in the Code itself, it is likely that in all cases Assistant Commissioners would be asked to take orders under the Regulation. It would therefore be desirable that some restriction should be placed. In the law as it stands, the Government may empower any officer to take orders under the Regulation. So, there is no necessity for this amendment at all. If any necessity is found for particular cases, I would suggest that only a restrictive clause may be added to the effect that in particular cases Assistant Commissioners may take orders for the acquisition.

Mr. K. S. Chandrasekhara Aiyar.—SIR,—With reference to the objection brought forward, I would say that even under the Regulation as it stands it is

open to Government to appoint specially any officer it likes to perform the functions of a Deputy Commissioner. That power is even now exercised. In several instances, Assistant Commissioners have been appointed specially, and I understand that in the Madras Presidency also Tahsildars are frequently empowered to take action under the Land Acquisition Act. So, it is a mistake to think that Government is precluded from appointing any officer other than a Deputy Commissioner. Government also have power to regulate the relative position of a Deputy Commissioner and subordinate officers in the matter of their duties under this Regulation. Hence, I do not think there is much force in the objection that we are making a new change in the law. As mentioned in the statement of objects and reasons, instead of issuing a notification in every case, we merely provide for the empowering of Assistant Commissioners to take action under the Regulation.

Mr. H. Narasinga Rao.—Sir,—Under the Regulation as it stands, an Assistant Commissioner can take power only under the authority of the Deputy Commissioner. So, there can be no hardship even with this amendment.

The motion was put to vote and passed seventeen voting for and three against the motion.

Mr. K. S. Chandrasekhara Aiyar.—Sir,—I now propose that the Bill as amended be taken up and passed at a subsequent meeting.

Mr. C. S. Doraswamy Iyer.—Sir,—I beg to second the motion.

The motion was put to vote and passed.

A Bill further to amend the Mysore Stamp Regulation, 1900.

Mr. K. S. Chandrasekhara Aiyar.—Sir,—The Bill further to amend the Mysore Stamp Regulation, 1900, was taken into consideration by the Legislative Council in January 1916. The object of the Bill, it will be remembered, is to raise the duty leviable in Mysore on bills of exchange and promissory notes to the scale prescribed in British India; and this, I take it, has been approved by the Legislative Council. It only remains now to formally pass the Bill into law, and I accordingly beg to move that it be passed.

Rajamantrapravina Dewan Bahadur Mr. J. S. Chakravarti.—Sir,—When I rise to second the motion which has just been proposed by the learned mover some members of this Council may have a shrewd suspicion that it is after all a money-bringing measure. They may think that when the Financial Secretary is taking so much interest about the affair it must be a device for filling treasury with extra cash. I can at once allay that suspicion and honestly assure the Hon'ble Members that in this case at least it is not so. Then what is the object of the Bill? The object as has been fully explained on previous occasions is simply to make the rate of Stamp duty on bills of Exchange, hundis, etc., the same in Mysore as they are in British India. But why should these rates, some members may ask, be the same here as in British India? The reason is that there is a great deal of commercial intercourse between the Mysore State and British India. It is also desirable that such intercourse should be facilitated as far as possible. Thousands of bills drawn elsewhere pass into Mysore every week and thousands drawn in Mysore pass elsewhere. To have different rates of stamp duty on bills in Mysore and British India is, therefore, confusing and may lead to mistakes. Unification in such circumstances is simplification. Our present rates are the same as those which prevailed in British India prior to 1910. In that year the Government of India raised the duty on bills of higher values. Out of consideration for the small traders they left the duty on lower values unchanged. But what happened?, bills of higher values began to be split up into a number of smaller ones. Instead of one Bill for 20,000 it was cheaper in stamp duty to have 100 bills for Rs. 200 each. This led to such unnecessary waste of time on the part of bankers and the system became intolerable. The Government of India were therefore, forced to proportionately raise the duty on bills of smaller values also in 1912.

What the Government of India did by two Acts in 1910 and 1912 we are doing now with the present Bill. I think no one can blame us for undue hurry in the matter. The Council has in the past treated this as a non-contentious measure. They did not appoint any select committee over it. It has now come up before the Council for its final passing. I think it deserves it and I hope that no member of the Council will have any doubt about it. I have, therefore, much pleasure in seconding the motion which has been placed before the Council by the learned mover.

The motion was put to vote and passed.

The meeting was then adjourned *Sine die*.

By Order,

G. SREENIVASA IYER,
Secretary, Mysore Legislative Council.

APPENDIX A.

(Question No. 3 (a))

Statement showing the number of defalcations and amount embezzled in the several offices located at Bangalore during the years 1914-15 and 1915-16.

Name of office	No.	Amount
		Rs. a. p.
Bangalore Forest Range Office ...	1	12,783 0 8
Bangalore City Municipality ...	21	290 13 4 (To be accounted for and under investigation.)
Government Medical Stores (drugs lost) ...	1	1,350 0 0 (Recovered)
Government Central Book Depot	3,540 13 0
Imperial Service Regiment ...	1	1,724 2 7
Bangalore District Office ...	1	255 0 0

APPENDIX B.

(Question No. 4.)

Statement showing the amounts allotted and spent towards the education of Mahomedans:—

Year	Budget allotment for Government Schools	Amount expended on Government Schools	Amount expended on Aided Schools
1911-12 ...	Separate figures are not available, being included under A.-V. and Vernacular Schools	Rs. 67,230	Rs. 4,680
1912-13 ...	Rs. 74,821	" 70,507	" 4,644
1913-14 ...	" 75,823	" 71,724	" 4,944
1914-15 ...	" 78,949	" 75,219	" 7,692
1915-16 ...	" 68,645	Year not yet closed	Year not yet closed